

¶ 38 - Drug Quantity

¶ 39 - Safety Valve

The Defendant objects to the lack of a downward adjustment in ¶ 39 for the safety valve, U.S.S.G. § 2D1.1(b)(11). This issue will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence to show that the Defendant has complied with the criteria set out in U.S.S.G. § 5C1.2(a)(1)-(5).

IT IS ORDERED:

1. The Court's tentative findings are that the following objections (drug quantity; base offense level) are granted:
 - a. the government's objections (Filing No. 37);
 - b. the Defendant's objection to ¶ 38 (Filing No. 36);
2. The Defendant's objection to ¶ 39 (safety valve) (Filing No. 36) will be heard at sentencing;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 4 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 17th day of November, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge